

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153**REMARKS**

Regarding the amendments:

Claims 1-21 have been canceled in favor of new claims 22-40.

All of new claims 22-40 include limitations referencing either a priority assignment or preferential transmission order of messages, or both.

New claims 22-27 include the limitations of "an assigner incorporated with said server group, said server assigning priority to the information in said first messages" and "said forwarder forwards the information contained in the first messages in preferential order by the assigned priority."

New claim 28 includes the limitation of "computer readable instructions ... providing the functions of ... (iv) assigning priority to the information in the first received messages; (v) forwarding the information contained in the first messages to a superintendent system in preferential order by the assigned priority; ..."

New claim 29 includes the limitation of "second computer readable instructions installed to said memory devices, said second instructions providing the function of forwarding the information contained in the first messages to a superintendent system in preferential order by an assigned priority."

New claims 30-35 include the limitation of "fourth computer readable instructions installed to said memory devices, said fourth instructions providing the function of assigning priority to the information in said first messages."

20/29

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Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

New claims 36-40 include the limitation of "second computer readable instructions installed to said memory devices, said second instructions providing the function of forwarding the information contained in the first messages to a central information system in preferential order by an assigned priority."

Applicants have amended the abstract paragraph to contain less than 150 words.

Applicants have amended the CROSS-REFERENCE TO RELATED APPLICATIONS paragraph marked 0002 to reference related applications 10/043,426 and 10/044,114.

Applicants now address each item of the office action.

1. The effective filing date for the subject matter of the pending claims is noted by the Office to be 1/10/2001.
2. The abstract is objected to because it contains more than 150 words.

Applicants have amended the abstract in compliance with this requirement.

3. The specification is objected to for not cross-referencing co-pending applications 10/043426 and 10/044144.

Applicants have amended the specification as required.

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

10. The grounds for the rejection numbered 9 are that the limitation "said server network hardware" has insufficient antecedent basis.

Applicants have canceled claims 11 and 17, rendering this rejection moot.

11. Claims 1, 3-5 and 7-9 are rejected under 35 U.S.C. § 102(e) with allegations that U.S. Pat. No. 6,363,421 ("Barker") anticipates the elements of these claims.

12. The Office offers particular references in Barker to support the rejection numbered 11 for claims 1 and 5.

Applicants disagree. Applicants do not believe that the element management system client of figure 2 of Barker is a central information system, nor do applicants believe that a Java Applet described in col. 5 constitutes a notification device as claimed. Even so, applicants have canceled these claims rendering the arguments moot.

13. The Office offers particular references in Barker to support the rejection numbered 11 for claim 9.

Again applicants disagree. Applicants do not believe that Barker discloses a superintendent system as claimed. However, applicant has canceled claim 9 rendering the arguments moot.

14. The Office offers particular references in Barker to support the rejection numbered 3 for claim 7.

Applicants disagree, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

4. Claims 1-21 are provisionally rejected under obviousness-type double patenting over claims 1-29 of Application No. 10/043,426.

Applicants have canceled claims 1-21, rendering this provisional rejection moot. Applicants have provided new claims 22-40 which include at least one element believed to be unobvious over the claims of Application No. 10/043,426.

5. Claims 1-21 are provisionally rejected under obviousness-type double patenting over claims 1-35 of Application No. 10/044,114.

Applicants have canceled claims 1-21, rendering this provisional rejection moot. Applicants have provided new claims 22-40 which include at least one element believed to be unobvious over the claims of Application No. 10/044,114.

6. Applicants understand that the rejections numbered 4 and 5 are provisional.

7. The Office gives reasoning for the rejections numbered 4 and 5.

Applicants understand these arguments.

8. The Office gives reasoning for the rejections numbered 4 and 5 with respect to claim 17.

Applicants understand these arguments and appreciate the careful consideration of the Office.

9. Claims 11 and 17 are rejected under 35 U.S.C § 112, second paragraph, as being indefinite.

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

15. The Office offers particular references in Barker to support the rejection numbered 4 for claim 8.

Applicants disagree, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.

16. Claims 2 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barker, and presumably over official notice.

17. For claims 2 and 6, the Office admits that Barker fails to disclose sending messages in a preferential order by assigning a priority to the messages. The Office relies on an alleged disclosure in Barker of overload control (in col. 34, lines 51-60 and col. 29, lines 41-53) and alleges that it would have been obvious to prioritize messages as a form of overload control.

Applicants point to the following instructions in the Manual of Patent Examining Procedure:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2142, page 2100-124.

Applicants traverse this rejection on grounds that all the claim limitations are not taught by the cited references, and thus a prima facie case of obviousness is not stated by the arguments of rejection. Particularly, Barker does not disclose the (1) the assignment of priority to messages in a reporting and maintenance system and (2) the transmission of messages in a preferential order anywhere in an enterprise management system.

Serial No. 10/044,632

Response to Office ActionExaminer: Reilly, Sean M.
Group Art Unit: 2153

First, Barker does disclose a precedence for messages (col. 34 lines 54-59), however this precedence is used to throttle trap messages. This is understood to mean that trap messages are discarded or dropped according to Barker's preference should the message rate exceed the specified maximum. However, this does not disclose a preferential order of message transmission.

Second, the prioritization is made by an agent residing on a network element in Barker's system, and not by a non-network element device as required by those claims. By performing prioritization between a network element and a destination system, network elements supporting only a standard protocol (such as SNMP) can be supported without modification.

Claims 2 and 6 have been canceled, rendering this rejection moot. However, applicants have included new claims 22-40 which include priority assignment and preferential transmission order of messages generally. Applicants request consideration of the above arguments with respect to those new claims.

18. Claims 10-21 are rejected under § 103(a) as being unpatentable over Barker, U.S. Pat. No. 6,714,977 ("Fowler"), the book "Unicenter TNG for Dummies" ("Sampson") and official notice.

19. The Office offers particular references in Barker to support the rejection numbered 18 for claim 17.

Applicants disagree, at least for reasons stated above, and further that applicants do not believe that all the claim elements are disclosed by the references or that a motivation to combine the references is absent. However, applicants have canceled these claims, rendering the arguments moot.

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

20. The Office offers particular references in Barker to support the rejection numbered 18 for claim 12.

Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled this claim, rendering the arguments moot.

21. The Office offers particular references in Barker to support the rejection numbered 18 for claims 13 and 18.

Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.

22. The Office offers particular references in Barker to support the rejection numbered 18 for claims 14 and 19.

Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.

23. The Office offers particular references in Barker to support the rejection numbered 18 for claims 15 and 20.

Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

24. The Office offers particular references in Barker to support the rejection numbered 18 for claims 16 and 21.

Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.

25. Applicants take note of the prior art made of record not relied upon.

26. Applicants take note that the rejection was made non-final.

For rejections relying upon official notice, applicants challenge the Office under MPEP § 2143.04 "C" to provide documentary support, unless those rejections are withdrawn.

Although applicants have amended the original claims, applicants maintain that the original claims are patentable at least by reasons set forth by the arguments above. Applicants reserve the right to prosecute these claims and their subject matter in this or subsequent continuing applications, and do not disclaim those claims in any way.

Serial No. 10/044,632

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

The applicant's representative would be grateful to be contacted at the below telephone number, should there be any remaining questions.

Respectfully submitted this 14 day of July, 2005.



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Serial No. 10/044,532

Response to Office Action

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Group Art Unit: 2153

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29/29

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